## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

MAJOR BOYD WHITLEY,	)	
	)	Case No.: 1:19cv-358
Plaintiff,	)	
	)	
VS.	)	
	)	ANSWER
SHERIFF VAN SHAW, CAPTAIN M. NESBITT,	)	
LIEUTENANT W. WALLACE,	)	
	)	
Defendants.	)	

The defendants, through counsel, respond to the complaint of the plaintiff as follows:

## FIRST DEFENSE RESPONSE TO COMPLAINT ALLEGATIONS

- I. A. Denied for lack of knowledge.
  - B. Not Applicable.
- II. A. Admitted.
  - B. Denied for lack of knowledge.
- III. A. Admitted.
  - B. Denied.
- IV. A. Admitted.
  - B. Admitted.
- V. The defendants and the Cabarrus County Detention Center have tried to work with the plaintiff with respect to his claimed religious beliefs. The Detention Center policies make provision for the accommodation of different religious beliefs of the inmates. The defendants have worked with the plaintiff within these policies. The defendants have never tried to force another religion or its beliefs on the plaintiff.

### SECOND DEFENSE GOVERNMENTAL IMMUNITY and/or PUBLIC OFFICIAL IMMUNITY

The actions of the defendants, including those actions alleged, are protected from liability by the doctrine of governmental immunity and/or public official immunity, which are a bar to recovery by the plaintiff.

#### THIRD DEFENSE NO PROXIMATE CAUSE

The actions of the defendant were not the proximate cause of any alleged injury to plaintiff, which lack of proximate cause is a bar to recovery by the plaintiff.

## FOURTH DEFENSE FAILURE TO FOLLOW GRIEVANCE PROCEDURE

The plaintiff failed to follow the defendant's grievance procedure and did not exhaust it, pursuant to the provisions of the Prison Litigation Reform Act.

# FIFTH DEFENSE STATUTE OF LIMITATIONS/STATUTE OF RESPOSE

The claims of the plaintiff are barred by the application Statute of Limitations or Statute of Repose.

WHEREFORE, the defendants, having answered the allegations of the complaint, pray the Court as follows:

- 1. That the plaintiffs have and recover nothing of these defendants and that this action be dismissed with prejudice;
- 2. For costs of this action; and

3. For such other and further relief as is just.

This 22nd day of August, 2019.

/s/ Richard M. Koch
RICHARD M. KOCH
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